



REMARKS

Status of the Claims

Upon entry of the amendment above, claims 11-53 will be pending, claims 11, 27, 31, and 49 being independent.

Summary of the Office Action

The rejections summarized immediately below reflect a telephone conversation had with Examiner Smith on August 22, 2003, during which the particular claims included in the first and third grounds of rejection have been corrected.

Claims 11-13, 15-24, and 26-41 are rejected under 35 USC §102(b) as being anticipated by HANSEN et al. (DE 197 10 702, hereinafter "HANSEN").

Claim 14 is rejected under 35 USC §103(a) as being unpatentable over HANSEN.

Claim 25 is rejected under 35 USC §103(a) as being unpatentable over HANSEN in view of McVEY (U.S. Patent No. 4,791,702).

Response to the Office Action

A. Withdrawal of Rejections

Applicants have reviewed the new grounds of rejection, all of which are based, at least partially, upon HANSEN, and respectfully disagree with the Examiner's conclusions.

The invention is directed to a tight lace-up device that is adapted to equip an article of footwear, such as a boot that is adapted to use in a sport such as snowboarding, in-line roller skating, alpine skiing, mountain skiing and telemark skiing, ice skating, etc., although not limited thereto.

More specifically, the invention addresses the problem that arises for boots that include laces, to provide a relatively lightweight and inexpensive arrangement (compared to buckles, for example), but for which the laces must be tight (due to the particular sport being practiced), but for which the lace has a relatively small cross section, which, although reducing friction, tends

to cause a painful shearing effect on the hand of the wearer of the boot and, thereby, prevents the wearer from applying sufficient tension on the lace to tighten the boot adequately.

As specified in independent claim 11, Applicants' invention includes, *inter alia*, a gripping device that includes "a frame for distributing tension of said linkage over a hand of the user."

As explained in paragraph [0020] of Applicants' specification (see the substitute specification filed on January 29, 2003), to achieve the aforementioned objective of avoiding the shearing of the hand by the lace, the gripping device of the invention includes a frame (see frame 3 in Figs. 1-4 of the exemplary embodiment directed to a snowboard boot). Dependent claim 12 further specifies that the frame is rigid, consistent with Applicants' aforementioned objective and paragraph [0020].

Moreover, in independent claim 27, Applicants call for the gripping device to include "a frame serving to space apart said two portions of said linkage to allow fingers of a hand of a user to extend within said loop, to engage said frame, and to pull on said linkage with said hand." Dependent claim 45, like claim 12, further specifies that the frame is rigid.

Whereas independent claim 27 is directed to the "lace-up device adapted to equip footwear," independent claim 31 is directed to an "article of footwear" which includes a lace-up device. Further, claim 31 includes the above-mentioned limitation of claim 27 regarding the frame of the invention. Dependent claim 41 further specifies that the frame is rigid.

Applicants respectfully submit that HANSEN fails to anticipate or render obvious their invention.

The §102 rejection identifies element 5 of HANSEN as a "gripping device."

No mention is made as to whether element 5 of HANSEN can be considered a "frame," as specified in claims 11, 27, and 31.

Applicants submit, in this regard, that HANSEN fails to disclose any frame for distributing tension of a linkage over a hand of a user.

Instead, HANSEN discloses a band 5 that appears merely to surround the lace 2 closely.

Applicants submit that band 5 cannot be characterized fairly as a frame, or even like a frame. No comment is made in the rejection regarding this limitation (*viz.*, "said gripping device comprising a frame ..."), which is included in independent claims 11, 27, and 31.

Further, Applicants are aware of no teaching or suggestion that band 5 of HANSEN is *rigid*, which is specified in claims 12, 41, and 45.

Further, Applicants respectfully take issue with the statement in the rejection that "With respect to Claim 12 and 41, the gripping device is more rigid than the lace." Applicants submit that the band 5 of HANSEN is a flexible part.

At least for the reasons given above, Applicants request that the rejections based upon HANSEN, either alone, or in combination with McVEY, be withdrawn.

Although Applicants submit that the rejections should be withdrawn for the foregoing reasons, they direct comments to certain additional dependent claims and statements in the rejections.

Near the middle of page 2 of the Office action, the rejection of claims 15-18 and 23 are addressed.

Claim 15 calls for the locking means of parent claim 11 to be integrated into return elements positioned at a junction of the tightening zone and the loop. The rejection refers to element 9 of HANSEN as the "locking device." However, element 9 of HANSEN appears to be above the return elements, in the area of the loop of the lacing 2 of HANSEN, rather than at the aforementioned "junction."

Claims 16-18 refer to return elements in a lower tightening zone and return elements in an upper tightening zone. HANSEN does not appear to disclose this subject matter.

Dependent claim 23 has been amended above (inasmuch as it had been previously presented as similar to claim 15) to describe the upper and lower tightening zones (for which independent tightening tensions can be maintained).

Dependent claim 20 calls for the "locking element" to be outside the tightening zone, in response to the statement in the rejection (directed to claims 15-18 and 23) that element 9 of HANSEN is "in the tightening zone".

Claims 24 and 33 have been amended to specify that the "locking element" is separate from the locking structure contained within the return elements. In the exemplary embodiment of the invention shown in the drawings, such locking element is shown as element 21. Therefore, the statement (bridging pages 2 and 3 of the Office action) regarding the subject matter of these claims being met by "locking structure contained within the last of the return elements" of HANSEN is no longer applicable.

Claim 30 has been amended to specify that the two zones of the tightening zone are separated by return elements that are lower than "an uppermost return element" in the tightening zone (*i.e.*, intermediate return elements, such as elements 52a, 52b in Applicants' Figs. 1 and 2).

Applicants additionally traverse the rejection of claim 25 as having been obvious over a combination of HANSEN and McVEY.

First, the invention of McVEY belongs to a field of endeavor that is quite different from that of the invention from that of HANSEN. McVEY has devised a carrying handle for an electric storage battery, *i.e.*, particularly for a battery that typically weighs 50 pounds (see column 3, lines 5-7).

Further, the device of McVEY is a handle for carrying, rather than a gripping device for pulling. Further, the handle of McVEY is not part of the product being handled, such as the flexible band 5 of HANSEN, for example. Instead, the handle of McVEY is intended to be

removed after the battery is carried. That is, during the use of the battery, the handle does not remain attached. Clearly, the band 5 of HANSEN is intended to remain attached to the lacing 2 after the lace tension is set. McVEY would teach that the handle be disconnected. If, on the other hand, a rejection were to be contemplated on the assertion that the McVEY handle could remain attached, Applicants would question whether one skilled in the art or, for that matter, one not skilled in the art, would want a substantial structure like the invention of McVEY constantly attached to his/her boot during use of the boot.

Still further, the length of the handle of McVEY is quite substantial compared to the size of the band 5 of HANSEN. Applicants question whether one skilled in the art of boots like that of HANSEN, would have been motivated by McVEY and have provided a structure for accommodating all the fingers of the hand, as the handle of McVEY appears to have done.

At least for the foregoing reasons, reconsideration and withdrawal of the rejection of claim 25 is requested.

B. Newly Added Claims

In the amendment above, Applicants have added new claims 42-53, of which claim 49 is independent.

Claim 42 further describes the rigidity of the frame of the gripping device recited in parent claim 11 by specifying it as having "a rigidity sufficient to maintain said two ends of said linkage spaced apart a fixed distance during tensioning of said linkage." In HANSEN, Applicants submit that the band 5 would likely bend and, thereby, adversely affect the forces applied to the user's hand.

Claim 43 further limits the width of the frame to be less than a width of a hand of the user, which is shown, *e.g.*, in Applicants' Fig. 3. Similarly, claim 44 calls for the frame to have a contact surface that is complementary to no greater than three fingers of the hand.

Claim 45, as mentioned above, calls for the frame of the gripping device to be rigid.

Claims 46 and 47 (depending from claims 27 and 31, respectively), in a slightly different manner, call for the frame to space apart the two portions of the linkage "a fixed distance during tensioning of said linkage." The band 5 of HANSEN, for example, would not appear to prevent the lace portions from coming together as the lace is tensioned.

Claim 48 calls for the linkage to remain connected to the gripping device during use of the article of footwear. This contrasts with McVEY, *e.g.*, by which the handle is to be removed, as mentioned above.

Independent claim 49 is directed to a sports boot having a gripping device and in which the gripping device has "a non-uniform cross section along a length extending between said two lace portions," as can be seen in Figs. 1-4.

Claim 50, like claims 12, 41, and 45, call for the gripping device to be rigid.

Claim 51, like claims 46 and 47, call for the gripping device to space apart the two lace portions a fixed predeterminate distance during tensioning of the lace.

Claim 52 specifies that the gripping device has a maximum cross section along the length thereof that is multiple times a transverse cross section of the lace. This feature relates to the object of the invention whereby the tension in the lace is distributed over the user's hand.

Claim 53, like claim 48, calls for the linkage to remain connected to the gripping device during use of the boot.

SUMMARY AND CONCLUSION

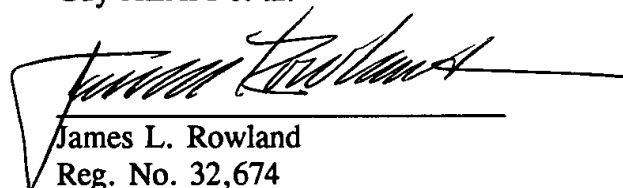
The grounds of rejection advanced in the Office action have been addressed and are believed to be overcome. Reconsideration and allowance are respectfully requested in view of the amendment and remarks above.

A check is enclosed for payment of a claim fee. No additional fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this reply as timely and complete to Deposit Account No. 19-0089.

Further, although no extension of time is believed to be necessary at this time, if it were to be found that an extension of time were necessary to render this response timely and/or complete, Applicants request an extension of time under 37 CFR §1.136(a) in the necessary increment(s) of month(s) to render this reply timely and/or complete and the Commissioner is authorized to charge any necessary extension of time fee under 37 CFR 1.17 to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,
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